



# **Publicly Owned Housing Program (POHP) Manual 2014 Appropriations**

*September 25, 2014*



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## Table of Contents

<b>Introduction.....</b>	<b>1</b>
Mission Statement.....	1
Background.....	1
Procedural Manual .....	1
Publicly Owned Housing Program (POHP).....	1
<b>Chapter 1 – Program Background and Purpose .....</b>	<b>2</b>
1.01 Program Background and Purpose .....	2
<b>Chapter 2 – Eligibility Criteria.....</b>	<b>3</b>
2.01 Property .....	3
2.02 Owner.....	3
2.03 Operations/Management .....	3
2.04 Income Limits .....	3
2.05 Eligible Use(s) of Funds .....	3
2.06 Ineligible Use(s) of Funds .....	3
<b>Chapter 3 – Funding and Loan Information .....</b>	<b>5</b>
3.01 Funding Source.....	5
3.02 Funding Amount.....	5
3.03 Loan Types.....	5
3.04 Loan Terms.....	5
<b>Chapter 4 – Application Requirements.....</b>	<b>6</b>
4.01 Applicant Responsibilities .....	6
4.02 Project Management Fee.....	6
4.03 Application Deadline/Application Submission.....	6
4.04 Application Content .....	6
<b>Chapter 5 – Selection and Award Process .....</b>	<b>8</b>
5.01 Review of the RFP Application .....	8
5.02 Selection Notification.....	8
5.03 Intake Meeting.....	8
5.04 Closing/Commitment Due Diligence Checklists .....	8

5.05	Issuance of Loan Commitment .....	8
5.06	Loan Commitment Terms and Closing Dates.....	9
<b>Chapter 6 – Design and Construction Review .....</b>		<b>10</b>
6.01	Plan Review and Plan Approval.....	10
6.02	Environmental Standards.....	10
6.03	Architectural Services .....	10
6.04	Design-build Design and Construction Delivery.....	11
6.05	Construction Loan Administration .....	11
6.06	Construction Loan Pay Draw Process.....	11
6.07	B3 Sustainable Building Guidelines.....	11
6.08	Predesign Requirements .....	12
6.09	Prevailing Wage.....	12
<b>Chapter 7 – Compliance Monitoring and Reporting.....</b>		<b>13</b>
7.01	Compliance Monitoring Requirement .....	13
7.02	Compliance Reporting Requirement.....	13
7.03	Compliance Term .....	13
<b>Chapter 8 – Contract Compliance Plan .....</b>		<b>14</b>
8.01	Policy .....	14
8.02	Purpose .....	14
8.03	Goals.....	14
8.04	Requirements.....	14
8.05	Sanctions .....	14
8.06	Equal Opportunity Laws/Rules.....	15
8.07	Jobs Reporting Requirement.....	15
<b>Chapter 9 – Minnesota Housing’s Fair Housing Policy .....</b>		<b>16</b>
<b>Appendix A: Definitions .....</b>		<b>18</b>
<b>Appendix B: Forms List.....</b>		<b>19</b>

## **Introduction**

### **Mission Statement**

Minnesota Housing finances affordable housing for low- and moderate-income households while fostering strong communities.

### **Background**

The Minnesota Housing Finance Agency (Minnesota Housing) was established by the 1971 session of the Minnesota Legislature to finance the construction and rehabilitation of housing for families of low- and moderate-income. In addition to providing financing for multifamily rental units, single family mortgage loans, and home improvement loans and grants, the Agency participates in and administers other programs that assist in increasing or improving affordable housing for Minnesota residents.

### **Procedural Manual**

This Procedural Manual sets forth the terms and conditions under which Minnesota Housing will provide financing under the Publicly Owned Housing Program.

### **Publicly Owned Housing Program (POHP)**

The proceeds of General Obligation Bonds (GO Bonds) fund POHP and are used to provide financing in the form of a 20-year, deferred, forgivable loan to public housing authorities and agencies (PHAs). PHAs use these loans to rehabilitate and preserve public housing.

## Chapter 1 – Program Background and Purpose

### 1.01 Program Background and Purpose

POHP was first established by the Minnesota Legislature in 2005 to offer assistance in the form of a loan to PHAs that provide rental housing to families (households with children). Since 2005, POHP has received increased funding and support from the Minnesota Legislature and continues to provide assistance to PHAs in the form of a 20-year, deferred, forgivable loan. The 2014 Minnesota Legislature appropriated \$20 million in GO Bond funds to Minnesota Housing for the rehabilitation of public housing under POHP.

Minnesota Statutes sections [16A.695](#) and [462A.202](#) govern GO Bond proceeds, which require the project to be owned by a state agency or political subdivision and require a public program be provided in the project. Specific uses of POHP funds are limited to:

- Rehabilitation of public housing, particularly to address health, safety, conservation issues; and
- Improvements of a capital nature.

## **Chapter 2 – Eligibility Criteria**

### **2.01 Property**

- The property must be Public Housing, defined as housing for low-income persons that is financed by the federal government and owned and operated by public housing authorities/agencies formed by cities or counties
- The property must be an existing building(s)

### **2.02 Owner**

All applicants must satisfy the following requirements:

- The applicant must have the authority to own and operate the project, enter into the loan agreements required by Minnesota Housing, and comply with the requirements of Minnesota Statutes sections 16A.695 and 462A.202
- The applicant must be a local unit of government, such as a city, county, or housing development authority as defined in Minnesota Statutes Section 462C.02, subdivision 6
- The applicant must have a current, audited Public Housing Assessment System (PHAS) rating of 80 or above. The PHAS rating system is operated by the U.S. Department of Housing and Urban Development's Real Estate Assessment Center (REAC)

### **2.03 Operations/Management**

The applicant (public owner) must directly operate and manage the project.

### **2.04 Income Limits**

All units in a project financed with POHP funds must be occupied by households whose income at the time of initial occupancy does not exceed the maximum household income as determined by the U.S. Department of Housing and Urban Development (HUD).

### **2.05 Eligible Use(s) of Funds**

Eligible uses of funds include but are not limited to:

- Expenditures of a capital nature such as design, rehabilitation, or major remodeling
- Major roof reconstruction or replacement
- Major window replacement projects
- Other improvements that add value or life to a building and are not of a recurring nature

### **2.06 Ineligible Use(s) of Funds**

Ineligible uses of funds include but are not limited to:

- Expenditures that are not of a capital nature, do not add value or life to a building, or are of a recurring nature
- Operating expenses and costs, reserves, market studies, up-front marketing expenses, hazard and liability insurance, legal fees not attributable to the acquisition or

## MINNESOTA HOUSING – PUBLICLY OWNED HOUSING PROGRAM (POHP)

betterment of the property, relocation expenses, and other ongoing maintenance improvements

- Expenses that are incurred prior to March 22, 2014 (the effective date of the law appropriating the funds)
- New construction of public housing



## **Chapter 3 – Funding and Loan Information**

### **3.01 Funding Source**

The 2014 Minnesota Legislature allocated up to \$20 million available through POHP, which is disbursed through a Request for Proposal (RFP). The funding is made available through the sale of GO Bonds. The bonds are issued by MMB and are backed by the full faith and credit of the State of Minnesota.

### **3.02 Funding Amount**

- There is no minimum or maximum loan request limit
- Minnesota Housing will review bid documents for cost reasonableness
- Minnesota Housing may fund all or part of a project identified on the application

### **3.03 Loan Types**

- Construction Loan - A construction/permanent, long-term loan to finance construction/rehabilitation and eligible soft costs. The loan funds are advanced during construction/rehabilitation as the project progresses
- End Loan - A permanent, long-term loan that is used to pay off a short-term construction/rehabilitation loan or other form of interim financing

### **3.04 Loan Terms**

Selected proposals will be awarded funding in the form of a zero interest, deferred loan with a 20-year term. At the end of the 20-year term, the debt will be forgiven if no event of default has occurred. However, the applicant is required to continue to own and operate the project for a public purpose for 35 years or until it is sold. Minnesota Housing reserves the right to review the PHA's POHP eligibility / repayment of POHP funds if the PHA should no longer participate in the HUD Public Housing Program. A GO Bond Declaration of Covenants as well as a Rent and Income Declaration must be executed in connection with the closing of the loan must be recorded against the property.

Any sale of the property requires prior written approval by Minnesota Housing and MMB. Sale of GO Bond financed property cannot occur unless the owner or agency determines by official action that:

- The property is no longer usable or needed to carry out the governmental program for which it was acquired or constructed;
- The sale is made as authorized by law; and
- The sale is made at fair market value

## Chapter 4 – Application Requirements

### 4.01 Applicant Responsibilities

The applicant is responsible for understanding the submission requirements necessary for a complete application. Applicants are able to access the application, supplemental materials, and resources on Minnesota Housing's website: [www.mnhousing.gov](http://www.mnhousing.gov). Application materials are available Wednesday, August 5, 2014.

### 4.02 Project Management Fee

Applicants may request a project management fee not to exceed 5% of the net total development cost. The fee may be used to pay for soft costs directly related to costs associated with applying for POHP funds. Such costs may include administrative expenses, processing agent fees, or construction management costs.

### 4.03 Application Deadline/Application Submission

The application package must be received no later than 5:00 p.m. Central Standard Time on Wednesday, November 5, 2014.

Applicants must submit the application and all required materials using Box.com (see [instructions](#)) **AND** send one complete, hard copy via USPS to:

Minnesota Housing  
400 Sibley Street  
Suite 300  
Saint Paul, MN 55101  
Attention: Laird Sourdif

### 4.04 Application Content

The application package must include all of the following:

- Completed, signed, and dated [Application Form](#);
- Most current Operating Budget approved by board resolution;
- Current approved PHA Plan;
- Most current Five-Year Capital Fund Program (CFP) Action Plan;
- Most current CFP Annual Statement to include any grants with unobligated funds from previous years;
- Most recent audited PHAS score report issued by REAC showing a score of 80 or above;
- Screenshot of the Electronic Line of Credit Control System (eLOCCS) webpage showing obligated and expended capital funds for CFP grants from the past three years;
- Screenshot of the eLOCCS webpage showing obligated and expended Capital Fund Recovery Grant (CFRG) funds;
- Two years of comparative audited financial statements or most current Financial Data System (FDS);

## MINNESOTA HOUSING – PUBLICLY OWNED HOUSING PROGRAM (POHP)

- An itemized, detailed Scope of Work and an itemized Construction Budget prepared by a third party Licensed Architect, Licensed Professional Engineer, or Qualified Rehab Specialist; and
- If relocation of tenants is required, an acceptable relocation plan and budget must be submitted to Minnesota Housing for approval.
- A Needs Assessment prepared by a third party Licensed Architect, Licensed Professional Engineer, or Qualified Rehab Specialist. Select one of the following options:
  - Option 1. Provide a Property Needs Assessment (PNA) prepared one year or less from the date of this application
  - Option 2. Provide a PNA prepared more than one year and less than ten years from the date of this application **AND** a current [Minnesota Housing 20-Year Capital Expenditure \(20YCE\) Template](#) to reflect capital expenditure needs
  - Option 3. Provide a [Minnesota Housing Physical Needs Assessment Template \(PNAT\)](#) **AND** a current [Minnesota Housing 20-Year Capital Expenditure \(20YCE\) Template](#) to reflect capital expenditure needs

### Exceptions:

- Projects with a total construction contract amount of less than \$300,000 (excluding construction contingencies and environmental remediation) are not required to provide any needs assessments or future capital expenditure information.
- Projects with a construction cost in excess of \$300,000 with a narrow single scope of rehabilitation for critical need, life safety, code, or emergency items by a single specialty contractor (such as elevator rehab, minor site work, fire alarm, fire sprinkler, etc.) can request a waiver from the Needs Assessment requirement by contacting Minnesota Housing POHP staff.

### The following optional attachments may be submitted at the applicant's discretion:

- Architectural or engineered plans such as site plans, floor plans, exterior building elevations, 3D renderings, etc.
- Photographs of overall property, existing conditions, and proposed improvement areas
- Other information deemed appropriate by the applicant to support the application

## **Chapter 5 – Selection and Award Process**

### **5.01 Review of the RFP Application**

- Minnesota Housing staff will review all POHP submissions after the application process has closed on Wednesday, November 5, 2014 at 5:00 p.m. The application package and required submissions are reviewed for consistency with Minnesota Housing’s strategic priorities and selection standards. All proposals are subject to Minnesota Housing’s market, architectural, construction, management, closing review, and processing requirements
- A Minnesota Housing staff architect will conduct a preliminary architectural review for design compliance. A site visit may be conducted based upon the scope of work and construction costs
- The Minnesota Housing selection committee reviews all proposals and provides recommendations for funding
- Final selection is presented to and approved by the Minnesota Housing Board

### **5.02 Selection Notification**

Applications recommended for acceptance will be presented to the Minnesota Housing Board within the first quarter of 2015. All applicants will be notified of their status after the board has taken action.

### **5.03 Intake Meeting**

Projects that are selected for funding meet with Minnesota Housing Staff during an initial intake meeting. The meeting should take place within 90 days of award. The purpose of the intake meeting is to review the details of the proposal and specific requirements of the program, particularly the due diligence requirements necessary to issue a commitment or to close the loan. The intake meeting may be in person at Minnesota Housing offices or via teleconference.

### **5.04 Closing/Commitment Due Diligence Checklists**

POHP recipients are required to submit due diligence items throughout the loan process. Separate checklists exist for construction loans and end loans:

- [Construction Loan Checklist](#)
- [End Loan Checklist](#)

### **5.05 Issuance of Loan Commitment**

Once the initial due diligence and design reviews are complete, Minnesota Housing issues a Mortgage Loan Commitment for End Loans or a Loan Closing for Construction Loans. POHP recipients are able to begin rehabilitation activities once the commitment is issued.

## **5.06            Loan Commitment Terms and Closing Dates**

The POHP commitment term and closing date are determined by the type of loan the applicant requests:

- End Loan - The project must enter into an end loan commitment within 20 months of Board approval. The project must be completed and the loan closed within 18 months once the end loan commitment is issued
- Construction Loan – The construction loan must close within 20 months from the initial Minnesota Housing Board approval date. Minnesota Housing reserves the right to recapture funds if a project does not close on time.

## Chapter 6 – Design and Construction Review

Every applicant is required to comply with all of the following:

- The [Minnesota Housing Rental Design/Construction Standards](#);
- The most recently adopted edition of the Minnesota Building Code, International Building Code (IBC); and
- Any other local, state, and national codes and standards in effect. The most restrictive codes and regulations will apply

POHP applicants are encouraged to seek Minnesota Housing Staff Architect input early in the design process to ensure rehabilitation plans and designs meet Minnesota Housing’s objectives.

### 6.01 Plan Review and Plan Approval

After the initial intake meeting and approval of scope of work, the applicant must submit construction documents at the 50% completion phase and the 100% completion phase to the assigned Minnesota Housing Staff Architect. Loan commitment for end loans and loan closing for construction loans are contingent upon an approved set of plans. Construction will not start without plan approval. Construction documents must include hard copy, bound full size plans and a hard copy, bound project manual (specifications). An electronic PDF must be included with the 100% set for Minnesota Housing electronic archiving purposes.

### 6.02 Environmental Standards

Applicants must include the following environmental submittals and actions:

- A Phase I Environmental Site Assessment (ESA);
- Additional environmental information such as Phase II ESAs, Lead-Based Paint (LBP) Inspection/Assessments, Asbestos-Containing Material (ACM) Assessments, Asbestos Containing Material (ACM) Operating and Maintenance (O&M) Plans, Response Action Plans (RAC), etc.; and
- Ongoing testing during construction and any remediation must be included in the project budget and scope of work
- Exceptions:
  - A HUD “Categorical Exclusion Determination” may substitute a Phase I ESA if approved by Minnesota Housing
  - A Phase I ESA is not required for projects with a total construction cost less than \$300,000

Contact Minnesota Housing architect staff if you have questions regarding these exceptions.

### 6.03 Architectural Services

Applicants must use the services of a Licensed Architect and/or Licensed Professional Engineer unless waived per Minnesota Housing’s Architect’s Guide (also refer to section 4.03 of this manual).

#### **6.04 Design-build Design and Construction Delivery**

Design-build delivery is not allowed unless approved by Minnesota Housing. Design-build is typically only allowed for single subcontractor-type scope of work such as elevator upgrades, re-roofing, etc.

#### **6.05 Construction Loan Administration**

To ensure compliance with approved construction documents and regardless of an end loan or a construction loan, Minnesota Housing must:

- Be granted access to the construction site during construction
- Receive regular construction meeting minutes and observation reports from the PHA's Architect (electronic PDF only)
- Receive (electronic PDF only) copies of Request for Proposal (RFP), Change Orders, Architectural Supplemental Instructions (ASIs), or any other change directive. Change Orders must be submitted to and approved by Minnesota Housing prior to acceptance or being executed

#### **6.06 Construction Loan Pay Draw Process**

For construction loans, contractor pay applications will be reviewed on site once a month at a regularly scheduled pay draw meeting with the Owner, General Contractor, and PHA's Architect in attendance. Upon Approval of the Pay Application by the PHA's Architect, the Pay Application and other soft cost expenses (with receipts) must be submitted to Minnesota Housing for processing through the Draw Form process. A Minnesota Housing Staff Architect may or may not attend on-site pay draw meetings. Photos of the construction progress must be included with the pay application.

Submittals required for End of Construction and Project Close-out are included in the POHP Mortgage Checklist.

#### **6.07 B3 Sustainable Building Guidelines**

The Buildings, Benchmarks, and Beyond (B3) program outlines Minnesota's Sustainable Building Design (MSBD) requirements. Per Minnesota Statutes Section 16B.325, all projects funded by GO Bond proceeds must comply with B3 Sustainability Guidelines. More information about B3 is available at <http://b3mn.org>.

**All recipients of POHP funds must complete the [Form P-Oc: Applicability Form](#).** This form determines if the recipient is required to follow B3 requirements or is eligible for a waiver. Minnesota Housing recommends POHP recipients complete Form P-Oc: Applicability Form immediately after the announcement of awards.

A recipient is required to comply with B3 requirements if **both** of the following apply:

- The building exceeds 10,000 square feet; **and**
- If modifications are made to the HVAC system.

If the recipient receives a B3 waiver from MSBD, they must provide a copy of the waiver to Minnesota Housing via email: [MHFA.POHP@state.mn.us](mailto:MHFA.POHP@state.mn.us). **In addition, any projects receiving a B3 waiver are required to comply with [Minnesota Housing's Limited Scope](#).**

## **6.08            Predesign Requirements**

Minnesota Statutes Section [16B.335](#) requires predesign and legislative review for GO Bond funded projects with a total construction cost (including construction contingencies) of \$1,500,000 or more. Applicants should review the statute for exemptions.

Predesign is a written plan that is completed prior to designing and constructing the project. It includes information regarding the project purpose, architectural plans, project budget, and schedule. It should also include information on the staffing and operating budget for the project. Please see the Department of Administration [Predesign Manual for Capital Projects](#).

Applicants who propose projects at or near the \$1.5 million construction cost mark should consult with the Department of Administration (Gordon Christofferson, 651.201.2380) to ensure the correct timeline and procedure are followed.

## **6.09            Prevailing Wage**

The applicant must agree that it will comply with all of the applicable provisions contained in Minnesota Statutes section [116J.871](#) and [Chapter 177](#).



## **Chapter 7 – Compliance Monitoring and Reporting**

### **7.01 Compliance Monitoring Requirement**

Minnesota Housing performs periodic inspections of housing it finances. The frequency of physical inspections is determined by several factors such as loan type, term, loan amount, etc. Owners will be notified in advance of any inspection.

### **7.02 Compliance Reporting Requirement**

POHP recipients are required to provide annual reporting using the Property Online Reporting Tool (PORT). PORT collects an annual certification of compliance and data on the occupants of housing it finances. Instructions on how to access PORT can be found [here](#).

### **7.03 Compliance Term**

All projects funded through GO Bond proceeds are required to comply with the affordability restrictions and are subject to monitoring and reporting for 35 years beginning on the date of closing.

## **Chapter 8 – Contract Compliance Plan**

### **8.01 Policy**

Minnesota Housing practices affirmative action to ensure equal opportunity in all its developments, programs, and other endeavors. Minnesota Housing's goals are to provide services and programs to a representative mix of Minnesota communities and to provide employment opportunities through its programs and developments. This policy applies to all Minnesota Housing employees and external partners

### **8.02 Purpose**

The purpose of the Contract Compliance Plan is to make clear, to its employees and external partners, Minnesota Housing's commitment to act affirmatively to achieve equal opportunity in all of its operations.

### **8.03 Goals**

Minnesota Housing's goals are:

- To ensure minority and female contractors and subcontractors equal access to business opportunities on Minnesota Housing financed projects and to encourage their presence at all levels
- To ensure contractors meet Minnesota Housing's employment and business goals
- To ensure the workforce on projects and programs Minnesota Housing finances reflects the demographics of the area in which each workforce is located

These goals will apply for the length of the contract or the term of Minnesota Housing's loan agreements. Minnesota Housing, at its discretion, may set numerical or percentage goals dependent on the location and size of a given project. Current goals will be determined by staff based on the location of the project.

### **8.04 Requirements**

Minnesota Housing is required to comply with all applicable local, state, and federal laws. These requirements are passed on to everyone the Agency does business with, either by contractual agreement or as a Minnesota Housing policy.

### **8.05 Sanctions**

Minnesota Housing has the contractual authority to demand full payment of any loan, stop proceeding with any project at any stage, and cease to do business with any entity or individual that fails to follow its affirmative action policies or fails to meet its/his/her contractual equal opportunity obligations.

## **8.06 Equal Opportunity Laws/Rules**

The operations of Minnesota Housing are regulated by Equal Opportunity Laws and Rules, including but not limited to the following, as may be amended:

- Executive Order 11246 (Affirmative Action Requirements, Federal and federally derived Contracts)
- Executive Order 11625 (Minority Business Enterprises)
- The Civil Rights Act of 1964 (Title VII)
- Equal Employment Act of 1972
- The Americans with Disabilities Act of 1990
- Section 504 of the Rehabilitation Act of 1973 as amended
- Minnesota Human Rights Act (Section 363A.36)
- Fair Housing Amendments Act of 1988

## **8.07 Jobs Reporting Requirement**

Per Minnesota Statute [16A.633, Subdivision 4](#) (MN Laws of 2012 Chapter 293, Section 28), PHAs are required to:

- Include the [Jobs Reporting Provision language](#) on Jobs Reporting in the construction contract(s) with the contractor(s)
- Review contracts between the contractor(s) and subcontractor(s) to ensure the [Jobs Reporting Provision Language](#) is included in construction contract(s)
- Ensure the information in the [Jobs Reporting Attachment](#) of the Repayment Agreement is completed by the contractor(s) and is submitted to Minnesota Housing prior to closing
  - Note: A Jobs Reporting Attachment must be completed for each approved project

## **Chapter 9 – Minnesota Housing’s Fair Housing Policy**

It is the policy of Minnesota Housing to affirmatively further fair housing in all its programs so that individuals of similar income levels have equal access to Minnesota Housing programs, regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, family status, or sexual orientation.

Minnesota Housing’s fair housing policy incorporates the affirmative fair housing marketing practices addressed in Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendment Act of 1988, which state that it is unlawful to discriminate in the sale, rental, and financing of housing based on race, color, religion, sex, handicap, familial status, or national origin. Minnesota Housing’s fair housing policy also incorporates the fair housing protections provided by the Minnesota Human Rights Act.

In part, regarding rental housing issues, Title VIII and the Human Rights Act make it unlawful to: (i) discriminate in the selection/acceptance of applicants in rental of housing units; ii) discriminate in terms, conditions or privileges of rental of a dwelling unit; (iii) engage in any conduct relating to the provision of housing that otherwise make unavailable or denies rental of a dwelling unit; (iv) make or publish (or have anyone else make or publish) advertisements that indicate preferences or limitations based on race, etc.; (v) tell a person that because of race, etc., a dwelling unit is not available when it is; and (vi) deny access to, or membership or participation in, associations or other services, organizations, or facilities relating to the business of renting a dwelling or discriminate in the terms, conditions, membership, or participation.

Minnesota Housing has a commitment to affirmatively further fair housing for members of the disabled communities by promoting the accessibility requirements set out in the Fair Housing Amendments Act of 1988, which establish design and construction mandates and provide for the residents’ right to make reasonable accommodations, under certain conditions. (Applicable to covered multifamily dwellings, which are buildings consisting of 4 or more units if such buildings have one or more elevators. It is also applicable to ground floor dwelling units in other buildings consisting of 4 or more dwelling units).

All Minnesota Housing programs require owners to market affirmatively, using specific steps geared to the particular program. These steps include:

- Outreach to all groups protected by the Civil Rights Act of 1968, amended in 1988, and those protected by the Minnesota Human Rights Act
- Affirmative marketing strategy that reaches protected groups
- Self-analysis to make sure all steps are non-discriminatory
- Upon request by Minnesota Housing, the submission of reports and documents that confirm the owner’s fair housing efforts

## MINNESOTA HOUSING – PUBLICLY OWNED HOUSING PROGRAM (POHP)

Participants will be expected to use affirmative fair housing marketing practices in soliciting renters, determining eligibility, and concluding all transactions.

## Appendix A: Definitions

TERM	DEFINITION
Construction Loan	A construction/permanent long-term loan to finance construction/rehabilitation and eligible soft costs. The loan funds are advanced incrementally during construction/rehabilitation.
End Loan	A permanent, long-term loan that is used to pay off a short-term construction/rehabilitation loan or other form of interim financing.
Qualified Rehab Specialist	A non-licensed professional (or entity) with at least 5 years of experience providing physical needs assessments and preparing project work scopes for multifamily housing rehab projects similar in scope and operation to those typically financed by Minnesota Housing.
Qualified Third Party Needs Assessor	Licensed Architect, Professional Engineer, Qualified Rehab Specialist, or Qualified Needs Assessor or entity that is not affiliated (no identity of interest) with the property's ownership, project, or management.
Jobs Reporting	The state mandated reporting requirement to ensure women and minorities have equal access to jobs created by Minnesota Housing funded projects

## **Appendix B: Forms List**

B3 Form P-Oc: Application Form

Minnesota Housing's Limited Scope

Minnesota Housing 20-Year Capital Expenditure (20YCE) Template

Minnesota Housing Physical Needs Assessment Template (PNAT)

Jobs Compliance Workbook